

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>EDWARD BOLIAUX,</b>	)	
	)	
<b>Movant,</b>	)	
	)	<b>No.: 19 CV 3955</b>
<b>vs.</b>	)	
	)	
<b>UNITED STATES,</b>	)	
	)	
<b>Respondent.</b>	)	

**MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE**  
**PURSUANT TO 28 U.S.C. § 2255**

Now comes the movant, Edward Boliaux, by and through his undersigned attorney, respectfully moves this Honorable Court, pursuant to 28 U.S.C. § 2255, to vacate, set aside, or correct the sentenced entered in violation of Mr. Boliaux's Fifth and Sixth Amendment rights, to set resentencing, and to grant him all relief to which he may be entitled. In support of this motion, Mr. Boliaux offers the following:

1. Place of detention:

FCI Terre Haute, 4200 Bureau Road North, Terre Haute, Indiana 47808

2. Name and location of court that entered the judgment of conviction under attack:

Judgment was entered by the United States District Court for the Northern District of Illinois, Eastern Division, the Honorable Manish S. Shah

3. Date of judgment of conviction:

On February 8, 2018, the district court entered the judgement of conviction.

4. Case number:

16-CR-116

5. Length of sentence:

On February 7, 2018, the district court sentenced Mr. Boliaux to forty-eight (48) months' imprisonment, with thirty-six (36) months' supervised release.

6. Nature of offense involved:

Wire Fraud (plead not guilty, found guilty by jury) and Bank Fraud (plead not guilty, found guilty by jury)

7. Movant's plea:

On March 30, 2016, Mr. Boliaux entered a plea of not guilty as to each count

8. Type of trial:

Jury

9. Whether movant testified at Trial:

Mr. Boliaux did not testify.

10. Whether movant appealed judgment:

On February 13, 2018, Mr. Boliaux timely filed his notice of appeal

11. Appellate Court Info:

- a) Seventh Circuit of Appeals
- b) Docket Number was 18-1322
- c) Grounds raised on appeal:

- i. The government failed to prove Mr. Boliaux guilty in counts one through four;
  - ii. The government failed to prove Mr. Boliaux guilty in bank fraud/check kiting counts;
  - iii. Lack of unanimity jury instruction and conflicting jury instructions required reversal;
  - iv. Brincat should have been excluded as expert and questions about his contact with Mr. Boliaux were proper;
  - v. Multiplicitous check kiting counts requires reversal.
- d) Judgment was affirmed
  - e) Affirmed on February 12, 2019
  - f) Petition for rehearing was filed on February 26, 2019 and denied on March 12, 2019
  - g) A petition for certiorari in the United States Supreme Court was not filed.

12. Petitions, applications, or motions with respect to this judgment in any federal court, other than the direct appeal:

- a) First petition, application, or motion:  
N/A
- b) Second petition, application, or motion:  
N/A
- c) Third petition, application, or motion:

N/A

d) Appeal regarding any petition, application, or motion:

N/A

e) Reason for not appealing adverse action on any petition, application, or motion:

N/A

13. Concise statement of grounds on which Movant is being held unlawfully:

Please see Memorandum of Law in Support of Movant Boliaux's Motion to Vacate, Set Aside, or Correct Sentence, Pursuant to 28 U.S.C. § 2255, for the legal and factual support for the claims listed below:

- a) Mr. Boliaux's constitution rights were violated by the government's intentional and reckless presentation of false evidence to the grand jury while seeking an indictment against Mr. Boliaux.
- b) Mr. Boliaux received ineffective assistance of counsel when his attorney failed to pursue a motion to dismiss based on the evidence and discovery available to him prior to trial, based on the same evidence is in section 13(a) above.
- c) Mr. Boliaux received ineffective assistance of counsel when his counsel failed to cross-examine and impeach a material government witness at trial.

14. Grounds in 13(a), (b), (c) that were not previously presented:

Mr. Boliaux has not previously presented any of the above-referenced grounds, including post-trial motions or direct appeal. This is his first post-conviction petition.

15. Pending petition or appeal:

No petition or appeal is pending in any court as to this judgment.

16. Previous attorneys:

The Name and address of each attorney who represented Mr. Boliaux at the states of the judgment attacked herein are as follows:

a) Preliminary Hearing:

N/A

b) Arraignment and Plea:

Imani Chiphe, Federal Defender Program, 55 East Monroe Street,  
Suite 2800, Chicago, Illinois 60603

c) Trial:

Imani Chiphe, Candace R. Jackson, Jasmine J. Johnson, Kimberly-  
Claire Elizabeth Seymour, Federal Defender Program, 55 East Monroe  
Street, Suite 2800, Chicago, Illinois 60603

d) Sentencing:

Andrew S. Gable, Law Office of Andrew Gable, 53 W. Jackson Blvd.,  
Suite 863, Chicago, Illinois 60604

e) Appeal:

Andrew S. Gable, Law Office of Andrew Gable, 53 W. Jackson Blvd.,  
Suite 863, Chicago, Illinois 60604

f) Post-Conviction Proceedings:

N/A

g) Appeal from Post-Conviction Proceedings:

N/A

17. Counts of Sentencing:

Mr. Boliaux was sentenced on Counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 of the  
Indictment.

18. Future sentences:

Mr. Boliaux has no future sentence to serve after completing the sentence  
imposed.

19. Timeliness of Motion:

Mr. Boliaux's § 2255 motion is timely because it is filed within one year of  
year of which the judgment of conviction became final. See 28 U.S.C. §  
2255(f)(1).

Wherefore, Edward Boliaux respectfully requests that this Honorable Court vacate, set aside, or correct the sentence entered in violation of his Fifth and Sixth Amendments rights, set resentencing, and grant him all relief to which he may be entitled in this proceeding.

Respectfully submitted,

/s/ Vadim A. Glozman  
*Attorney for Edward Boliaux*

Vadim A. Glozman  
VADIM A. GLOZMAN LTD.  
53 W. Jackson Blvd., Suite 1410  
Chicago, IL 60604  
(312) 726-9015

**CERTIFICATE OF SERVICE**

I, Vadim A. Glozman, an attorney for Movant Edward Boliaux, hereby certify that on this, the 13th day of June, 2019, I filed the above-described document on the CM-ECF system of the United States District Court for the Northern District of Illinois, which constitutes service of the same.

Respectfully submitted,

/s/ Vadim A. Glozman

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